IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 533 OF 2003

WITH

WRIT PETITION NO. 541 OF 2003

Ichalkaranji Urban Co-op. Bank Ltd., Ichalkaranji .... Petitioner

Vs.

The Divisional Jt. Registrar Co-op. Societies, Kolhapur Division, Kolhapur & Ors. .... Respondents

Mr. A.A. Kumbhakoni for Petitioner

Mr. S.K. Chinchalikar, AGP for respondent no. 1
Mr. A.B. Borkar for respondent Nos. 2 and 3.
Mr. A.Y. Sakhare, Sr. Advocate i/b M/s YKS Legal for respondent Nos. 4 and 5.

CORAM : A.P. DESHPANDE, J.
DATE : 17TH OCTOBER, 2007

P.C.

1) By consent taken up for final hearing.

2) An identical question arise for consideration in both these Writ Petitions hence same are disposed of by this common judgment.

3) A common order passed by the Divisional Joint Registrar, Co-op. Societies, Kolhapur Division, Kolhapur is challenged in these petitions mainly on two grounds, one is that the impugned

order has been passed in violation of principles of natural justice in as much as even notice was not issued to the petitioner-Bank though caveat was filed and second is that the revision petitions have been allowed in breach of mandatory provisions contained in Section 154 (2A) of the Maharashtra Co-operative Societies Act.

4) Paragraph No. 2 of the impugned order reads thus :

> "Registrar C.S., Kolhapur Zilla Nagari Bank Association, Kolhapur has passed aforesaid impugned recovery certificates in violation of the order passed by this authority in Revision Application No. 605/02 and therefore, I do not find it necessary to issue notices to the other side before passing present judgment".

5) It is an admitted position that within 5 days from the date of filing of Revision Petition, the same are allowed without any notice to the present petitioners in whose favour recovery certificates were issued. It is thus not in dispute that the impugned orders are passed in violation of principles of natural justice. It is also an admitted position that the applicants

before the Registrar had not deposited 50% of the amount covered by the Recovery Certificates which is mandated by Section 154 (2A) of the Maharashtra Co-operative Societies Act. In an identical set of facts, the learned Single Judge of this Court has allowed Writ Petition No. 518 and 536/2003 in which the same common order was challenged. These Writ Petitions were not disposed of as, at the time of decision of the said petitions, there was a controversy as to whether said authorities have jurisdiction to deal with the matters wherein the claim is exceeding Rs.10.00 Lacs and thus these Writ Petitions deserve to be allowed by passing the same order as passed in the earlier Writ Petitions. Thus the impugned order is set aside and the matter is remanded to the Revisional authority for denovo hearing and decision of the revisions, after granting reasonable opportunity of hearing to both the parties, on merit and in accordance with law and keeping in view the provisions of section 154 (2A) of Maharashtra Co-operative Societies Act. All questions are left open, touching the merits in revision. The Revisional Authority shall decide the revisions as expeditiously as possible and preferably within 12 weeks period from the date of receipt of the order.

6) Parties to act on ordinary copy of the order duly authenticated by the Sheristedar of this Court.

7) Rule made absolute in above terms with no order as to costs.

(A.P. DESHPANDE, J.)